

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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In the Matter of

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Replacement of Part 90 by Part 88
to Revise the Private Land Mobile
Radio Services and Modify the
Policies Governing Them

PR Docket No. 92-235

Examination of Exclusivity and
Frequency Assignment Policies of
the Private Land Mobile Radio Services

TO: The Commission

**SUPPLEMENTAL COMMENTS OF THE
LAND MOBILE COMMUNICATIONS COUNCIL**

Land Mobile Communications Council ("LMCC") hereby submits Supplemental Comments in the above-captioned proceeding. These comments address issues raised on reconsideration of the Second Memorandum Opinion and Order, FCC 99-68, 64 Fed. Reg. 36258 (July 6, 1999) (the "Second MO&O").

I. INTRODUCTION

LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. LMCC acts with the consensus, and on behalf, of the vast majority of public safety, business, industrial, private, commercial, and land transportation radio users on the several

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frequency bands regulated by the Commission. Membership includes the following organizations.

Aeronautical Radio, Inc. (ARINC)
American Association of State Highway and Transportation Officials (AASHTO)
American Automobile Association (AAA)
American Mobile Telecommunications Association, Inc. (AMTA)¹
American Petroleum Institute (API)
American Trucking Associations, Inc. (ATA)
Association of American Railroads (AAR)
Association of Public Safety Communications Officials-International, Inc. (APCO)
Central Station Alarm Association (CSAA)
Forest Industries Telecommunications (FIT)
Forestry-Conservation Communications Association (FCCA)
Industrial Telecommunications Association, Inc. (ITA)
Intelligent Transportation Society of America, Inc. (ITSA)
International Association of Fire Chiefs (IAFC)
International Association of Fish and Wildlife Agencies (IAFWA)
International Municipal Signal Association (IMSA)
International Taxicab and Livery Association (ITLA)
MRFAC, Inc. (MRFAC)
National Association of State Foresters (NASF)
Personal Communications Industry Association (PCIA)
Telecommunications Industry Association (TIA)
United Telecom Council (UTC)

II. DISCUSSION

In pending Petitions for Reconsideration of the Second MO&O, suggestions have been made to the effect that coordination criteria should be adopted for the VHF and UHF frequencies historically shared by manufacturers, forest products companies, utilities, petroleum, and telephone companies; by railroads and motor carriers; and by automobile emergency eligibles prior to consolidation.² MRFAC and FIT have urged that adoption of coordination criteria

¹ AMTA has registered its opposition to the instant filing in balloting conducted pursuant to LMCC's By-Laws.

² See, e.g., MRFAC Petition for Partial Reconsideration filed July 8, 1999; FIT Petition for Partial Reconsideration filed July 16, 1999.

applicable to all users on these channels would obviate the concerns expressed regarding interference to incumbent systems and, at the same time, preserve access to these frequencies for all users including, but not limited to, those in the industries referenced above.

At its annual meeting held Friday, April 14, LMCC addressed a proposal that the Commission revise its Rules so as to put in place a "coordination trigger" applicable to new or modified systems on the subject channels. That proposal was adopted. Accordingly, LMCC urges the Commission to adopt the following Rule:

Applications for new and/or modified systems on frequencies (including adjacent frequencies) shared prior to radio service consolidation by manufacturers, forest products, utilities, petroleum, and telephone maintenance eligibles; by railroads and motor carriers; or by automobile emergency eligibles, may be coordinated by any coordinator certified in the Industrial/Business Pool; provided, however, that in the event the interference contour (19 dBu for VHF stations, 21 dBu for UHF stations) of a proposed station would overlap the service contour (37 dBu for VHF stations, 39 dBu for UHF stations) of an incumbent station, the concurrence of the coordinator for the industry in which the license was issued, or of the licensee itself, shall be obtained.^[3]

The rule would require any coordinator with an application whose interfering contour would overlap an incumbent's service contour to contact either the incumbent or its preferred coordinator before forwarding the application to Gettysburg. Upon receipt of the notification the incumbent or its coordinator

³ The proposed rule does not reach frequencies allocated to the power, petroleum, railroad and automobile emergency radio services on an exclusive basis prior to consolidation, e.g. the 150, 157 and 452 MHz channels in the case of automobile emergency.

would then have the opportunity to express its concurrence or lack thereof to the originating coordinator. It is expected that in most cases the proponent and the incumbent would be able to resolve any differences by using engineering solutions, for example. However, given the fact that the frequencies in question are, by definition, shared, the originating coordinator would still be allowed to forward the application to Gettysburg in the absence of an agreed-upon resolution. At that point the Commission would be called upon to resolve the matter.

Several points should be stressed:

First. The rule would apply to any incumbent on the subject channels regardless of its industry and regardless of its pre-consolidation radio service.

Second. The rule would apply to incumbents coordinated last week (or next week) as much as it would apply to entities which have been operating for years.

Third. Incumbents would not be afforded a veto over new applications, i.e. the proposal is not intended to create exclusivity.

Fourth. By providing a mechanism for inter-coordinator/incumbent discussions before the fact, it is anticipated that the rule will significantly reduce the instances of complaints to the agency alleging faulty coordination. The frequency coordination process should work more efficiently; the Commission should be less burdened with matters that coordinators, applicants and incumbents are in a position to resolve themselves; and coordinators are relieved of the need to scrutinize all applications coordinated on any given day (and every

day) in order to determine whether any one or more of them might cause a problem for one of its constituents.

In short, the coordination trigger proposed here represents a sensible rule of the road which advantages no one industry or coordinator as against others, but benefits all.


III. CONCLUSION

For the foregoing reasons, LMCC urges adoption of the proposed rule.

Respectfully submitted,

**LAND MOBILE COMMUNICATIONS
COUNCIL**

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April 28, 2000